



Department of the Treasury
Internal Revenue Service
Southeast Key District (EP/EO)

Date: FEB - 4 1999

Employer Identification Number:

Person to Contact:

Telephone Number:

In Reply Refer to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates you were incorporated [REDACTED]. Your purposes as stated in your Articles of Incorporation include the following: "Said Corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code."

Your Constitution provides the objects of the [REDACTED] are as follows:

To promote the religious spirit of members of a Police Department in [REDACTED], or maintain a residency in [REDACTED] who are of the Jewish Faith.

To promote fraternal relations, friendship, understanding and cooperation among all faiths within [REDACTED] in [REDACTED].

[REDACTED]

To promote and cooperate in the general welfare work of the community, and to encourage members of [REDACTED] to enter the Law Enforcement field.

FACTS:

You requested exemption as an educational organization described under section 501(c)(3).

[REDACTED] is an organization made up of police officers of the [REDACTED].

[REDACTED] has twelve monthly meetings, one annual meeting, one summer picnic meeting and two holiday meetings. The purpose of the group's activity is to educate the members of the group regarding issues in law enforcement that are particularly important to the health, safety and welfare of the individual officers as it relates to their professional activities as police officers. Through the educational activities, the police officer receives instruction, training, counseling and a chance to discuss and debate current issues, current training techniques and relevant issues that will affect their safety and lives as police officers. The organization is funded by membership dues, and contributions given by members of the community.

In order to be a member, you must be a sworn police officer in [REDACTED] and a [REDACTED]. Dues are \$[REDACTED] per year. The only benefit members receive in exchange for the payment of dues is the opportunity to attend the educational seminars and/or meetings provided by the group in order to further their quest for knowledge in the specific area of law enforcement.

LAW:

Section 501(c)(3) of the Internal Revenue Code provides for exemption from Federal income tax for organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, in construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States stated, "This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3), unless it serves a public rather than a private interest. Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such purposes, if more than an insubstantial part of its activities serve private interests.

RATIONALE:

In order to come within the terms of section 501(c)(3), an organization seeking tax-exempt status must establish that it is organized "exclusively" for an exempt purpose.

In this instance, in order to fall within the claimed exemption, an organization must be devoted to educational purposes exclusively. This plainly means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes. Thus it becomes unnecessary to determine the correctness of the educational characterization of the organization's operations, since the primary purpose is to [REDACTED]

[REDACTED]

To be eligible for exempt status, "no part of an organization's net earnings may inure to the benefit of any private shareholder or individual." This means the amount or extent of the inurement or benefit is not relevant. Refer to Freedom Church of Revelation v. United States, 588 F. Supp. 693, 698 (D.D.C. 1984).

An organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

When an organization operates for the benefit of private interests such as designated individuals, the organization by definition does not operate exclusively for exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii), Income Tax Regs., interpreted by Retired Teachers Legal Fund v. Commissioner, 78 T.C. 280 provides, prohibited private benefits may include an "advantage; profit; fruit; privilege; gain; or interest."

You have failed to establish that you operate exclusively for exempt purposes as required by section 501(c)(3). This is because you have operated for a substantial non-exempt private purpose, which benefit [REDACTED] more than incidentally. Also, your activities serve the private interests of [REDACTED] rather than the public.

The limited scope permeating the organization is reflected in its' Constitution provisions limiting the membership to [REDACTED], "who by civil service appointment or tenure of office, are permanent active members of a [REDACTED]".

The Shomrim Society does not disseminate education, information and/or training to all the members. Nor, do they disseminate it to the general public. All newsletter and meetings are limited to [REDACTED].

[REDACTED] is set up for the benefit of a definite class of individuals.

A trust or corporation organized and operated for the benefit of specific individuals is not charitable.

It is clear the organizations activities are directed at serving the private benefit of its' members, as opposed to serving the general public at large.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."